

MINUTES  
MALIBU CITY COUNCIL  
REGULAR MEETING  
DECEMBER 10, 2001  
HUGHES AUDITORIUM  
6:30 P.M.

**CLOSED SESSION**

At 5:00 p.m., the regular meeting of the Malibu City Council convened. City Attorney Hogin announced that the purpose of the Closed Session was to discuss matters listed on the posted agenda pursuant to Government Code Sections 54956.9(a), 54956.9(b), 54956.9(c), and 54957. The City Council recessed to a closed session.

**CALL TO ORDER**

Mayor House reconvened the meeting at 7:00 p.m.

**ROLL CALL**

The following persons were recorded in attendance by the Recording Secretary:

PRESENT: Mayor Joan House, Mayor Pro Tem Jeffrey Jennings, Councilmembers Sharon Barovsky, Ken Kearsley, and Thomas Hasse.

ALSO PRESENT: Katie Lichtig, Acting City Manager; Christi Hogin, City Attorney; Paul Adams, Parks and Recreation Director; Rick Morgan, City Engineer; Vic Peterson, Building Official; Julia James, Administrative Services Director; Chuck Bergson, Public Works Director; Barry Hogan, Planning Director; Drew Purvis, Senior Planner; Lt. Bradstock; and Lisa Pope, City Clerk

**FLAG SALUTE**

Sonja Bonner led the Pledge of Allegiance.

**CLOSED SESSION REPORT**

City Attorney Hogin announced that the Council met in Closed Session at 5:00 p.m. for the purpose of discussing matters listed on the posted closed session agenda as follows:

**Existing litigation per Government Code Section 54956.9 (a):**

1. Antario v. City of Malibu  
Los Angeles County Superior Court Case No. BC253990
2. City of Malibu v. California Coastal Commission  
Los Angeles County Superior Court Case No. BC230410
3. City of Malibu v. Santa Monica Mountains Conservancy (Streisand Center)  
Ventura County Superior Court Case No. CIV193900

4. Coffman v. City of Malibu  
Los Angeles County Superior Court Case No. BC246067
5. Darian v. Accent Builders et al.  
United States District Court Case No. 00-10255-FMC(JWJ)
6. Dove, et al. v. Malibu City Council, et al.  
Los Angeles County Superior Court Case No. BC254020
7. Keach v. City of Malibu  
Los Angeles County Superior Court Case No. SS009723
8. Lavine v. City of Malibu  
Los Angeles County Superior Court Case No. SS008071
9. Malibu Township Council v. City of Malibu, et al.  
Los Angeles County Superior Court Case No. SC067214
10. Rubens v. City of Malibu  
Los Angeles County Superior Court Case No. SC060331
11. Sierra Club v. City of Malibu  
Los Angeles County Superior Court Case No. BS064912
12. Silver v. City of Malibu  
Los Angeles County Superior Court Case No. BC255025
13. Trancas Property Owners Association v. City of Malibu  
Los Angeles County Superior Court Case No. SC054684
14. Taxpayers for Livable Communities; Jay Liebig v. City of Malibu  
Los Angeles County Superior Court Case No. BC258432
15. Chicksands Properties LTD. v. City of Malibu et al.  
Los Angeles County Superior Court Case No. BS072081
16. Levenson v. City of Malibu et al.  
Los Angeles County Superior Court Case No. SC059037
17. Marine Forest Society v. California Coastal Commission Case No. 00AS00567  
(Sacramento Superior Court) (Amicus)

18. Number of potential cases: 1

**Initiation of Litigation pursuant to Government Code Section 54956.9(c):**

19. Number of cases: 1

**Personnel matters pursuant to Government Code Section 54957:**

20. Public Employee Performance Evaluation  
Title: Acting City Manager

**Real Estate negotiation matters pursuant to Government Code Section 54956.8:**

21. Property located at: 23805 Stuart Ranch Road  
City Negotiator: Acting City Manager

City Attorney Hogin reported that the Council discussed many of the closed session items but took no reportable action.

**APPROVAL OF AGENDA**

MOTION Councilmember Hasse moved and Councilmember Kearsley seconded a motion to approve the agenda. The motion carried unanimously.

**REPORT ON POSTING OF AGENDA**

City Clerk Pope reported that the agenda for the meeting was posted on November 30, 2001, with the amended agenda posted on December 7, 2001.

**ITEM 1 CEREMONIAL/PRESENTATIONS**

- A. Presentation of Malibu Tile to Pat Greenwood for 10 Years of Volunteer Service to the City of Malibu (Continued from November 13, 2001)

Deferred to later in the meeting.

- B. Presentation of Malibu Tile to Sonja Bonner for 7 Years of Service to the City of Malibu

Building Official Peterson presented a Malibu Tile to Sonja Bonner for 7 years of service to the City of Malibu.

**ITEM 2 A. PUBLIC COMMENTS**

John Mazza urged the Council to reject the easement for a project on Portshead.

Bob Purvey stated he had read an article in the newspaper indicating that public meetings were held regarding the LCP. He asked whether environmental organizations would be invited to such meetings.

Ryan Embree discussed the need for street light maintenance on Pacific Coast Highway. He stated protocol was necessary to survey street lights and sign illuminators.

Ozzie Silna discussed the dangers of the intersection at Pacific Coast Highway and Serra Road. He urged Council to pursue the possibility of a traffic signal.

Acting City Manager Lichtig explained that the Public Works Department routinely inspected City roads and Caltrans lights. She stated Caltrans would be reporting to the City on the possibility of a traffic signal at the intersection of Pacific Coast Highway and Serra Road. She stated staff would be meeting with Caltrans in January.

City Attorney Hogin stated a memo would be presented to Council on January 14, 2002 regarding the Portshead easement.

**B. COUNCIL COMMENTS**

Councilmember Hasse discussed recent events and meetings he had attended.

Councilmember Kearsley congratulated the Santa Monica High School football team. He discussed the GIS internship program that would be set up at City Hall. He stated the traffic studies indicated a light was needed at Civic Center Way and Winter Canyon. He suggested establishing a Council ad hoc committee to discuss the alternatives.

Mayor House suggested the matter be referred to the Public Works Subcommittee.

**CONSENSUS**

By consensus, the Council referred consideration of the intersection at Civic Center Way and Winter Canyon to the Public Works Subcommittee.

Mayor Pro Tem Jennings discussed the importance of maintaining the lights on Pacific Coast Highway. Public Works Director Bergson explained that staff reviewed the lights on a quarterly basis and submitted reports to Caltrans. He stated Caltrans had responded to some issues. Mayor Pro Tem Jennings discussed the Administration and Finance Subcommittee meeting on December 10, 2001 at which grant applications were reviewed.

Mayor House requested Lt. Bradstock report on the recent ocean incident. Lt. Bradstock reported on the kiyaking incident. Mayor House encouraged residents to be mindful of the winds and rough waters. She discussed recent meetings and events she had attended. She discussed meetings regarding the LCP. She invited residents to attend the City's Open House Holiday party on Friday, December 14, 2001, from 4:00 p.m. to 7:00 p.m.

Councilmember Barovsky discussed attendance at the recent LCP meetings.

### **ITEM 3      CONSENT CALENDAR**

Mayor House pulled Item Nos. 3.B.3. and 3.B.9. Item No. 3.B.8. was pulled by the public.

**MOTION**      Councilmember Hasse moved and Mayor Pro Tem Jennings seconded a motion to approve Item Nos. 3.A., 3.B.1., 3.B.2., 3.B.4., 3.B.5., 3.B.6., 3.B.7., and 3.B.10. under the Consent Calendar. The motion carried unanimously.

The Consent Calendar consisted of the following items:

A.      Previously Discussed Items

B.      New Items

1.      Waive further reading

Staff recommendation: After the City Attorney has read the title, waive full reading of ordinances considered on this agenda for introduction on first reading and/or second reading and adoption.

2.      Approve Warrants

Staff recommendation: To allow and approve warrant demand numbers 17963 through 18020 listed on the register from the General Fund and direct the City Treasurer to pay out the funds to each of the claimants listed in Warrant Register No. 248 in the amount of the warrant appearing opposite their names, for the purposes stated on the respective demands, including payroll checks, in a total amount of \$263,104.25.

4.      Approval of Minutes

Staff recommendation: Approve City Council meeting minutes for the meeting held on November 26, 2001.

5.      Annual Audit Report and Management Letter for Fiscal Year Ended June 30, 2001

Staff recommendation: Receive and file the report.

6.      Certification of Canvass of the Vote for the Special Election of November 6, 2001

Staff recommendation: Adopt Resolution No. 01-68, reciting the facts of the special municipal election held on November 6, 2001 and declaring the results and such other matters as provided by law.

7.      April 9, 2002 General Municipal Election

Staff recommendation: 1) Adopt Resolution No. 01-71, calling and giving notice of the holding of the general municipal election to be held on Tuesday, April 9, 2002, for the election of certain officers as required by the provisions of the laws of the State of California relating to general law cities; 2) Adopt Resolution No. 01-72, requesting the Board of Supervisors of the County of Los Angeles to render specified services to the City relating to the conduct of a general municipal election to be held on Tuesday, April 9, 2002; and 3) Adopt Resolution No. 01-73, ordering the canvass of the General Municipal Election to be held on Tuesday, April 9, 2002, be made by the City Clerk.

10. Metropolitan Transportation Authority (MTA) Memorandum of Understanding for Pacific Coast Highway and Zumirez Drive Roadway Realignment - MTA Call for Projects ID#6355, City cip 00-03

Staff recommendation: Authorize the Acting City Manager to execute the Memorandum of Understanding for Pacific Coast Highway and Zumirez Drive Roadway Realignment (MTA Call for Projects ID # 6355).

The following items were pulled from the Consent Calendar for individual consideration:

8. Realignment of Zuma Ridge Trail Easement in Tract No. 45585 (Javid - Seastar Drive)

Staff recommendation: Authorize the Acting City Manager to execute a Quitclaim Deed of existing easements over lots 12, 13, & 19 of Tract No. 45585; and Accept new Easement Deeds in favor of the City over the same lots for the realignment of the Zuma Ridge Trail.

City Engineer Morgan presented the staff report.

Jo Ruggles, Malibu Trails Association, discussed realignment of the trail. She requested the Council ensure that the applicant completes the trail prior to final approval. She suggested requiring a bond of completion. She stated Malibu Trails wanted to ensure the trail was available to hikers and equestrian.

Diane Everett expressed concern regarding the proposed trail location and that the property owners were not aware of the difficult trail installation. She suggested monitoring of construction of the trail occur to ensure completion. She stated she felt the property owners were not aware of what the proposal would cost.

City Engineer Morgan stated the applicant was in the process of obtaining the necessary permits for constructing the trail.

Councilmember Barovsky asked why the City would execute the quitclaim deed without Coastal Commission permits. City Engineer Morgan explained the purpose of the City requiring a bond.

Councilmember Hasse suggested the applicant be invited to the meeting to hear the Council's concerns.

CONSENSUS

By consensus, the Council referred the matter to staff and directed staff to invite Mr. Javid to the next meeting.

Mayor Pro Tem Jennings stated it was necessary to determine a method of ensuring the trail development.

City Attorney Hogin stated the applicant was looking for indication that the realignment concept was acceptable.

CONSENSUS

By consensus, the Council approved the concept and referred the matter back to staff to bring back documentation with appropriate assurances of trail development

3. Re-affirm the State of Local Emergency Declared by the Director of Emergency Services on March 9, 2001 relating to the landslide Road Failure at Corral Canyon

Staff recommendation: Re-affirm the State of Local Emergency by minute order.

Mayor House asked why it was necessary to reaffirm the State of Local Emergency if the road had been reopened. Acting City Manager Lichtig explained that there were portions of the road still to be completed. She stated it was prudent to continue to re-affirm the state of local emergency until funding was complete.

MOTION

Mayor House moved and Mayor Pro Tem Jennings seconded a motion to re-affirm the State of Local Emergency by minute order. The motion carried unanimously.

9. Corral Canyon Road Realignment (cip 99-03), Additional Appropriations  
Staff recommendation: 1) Approve an amendment to the contract with Calnex Engineering in the amount of \$234,000 for change orders and contingencies related to construction costs on the project; 2) Authorize the Acting City Manager to ratify the contract with Bing Yen and Associates and amendments for a total amount of \$39,066 for geotechnical services related to this project; 3) Authorize the Acting City Manager to ratify the contract with Solid Waste Solutions (SWS) and amendments for a amount of \$30,000 for construction management services related to this project; and 4) Approve an appropriation of \$22,000 for archeological services and miscellaneous costs related to the project.

Mayor House stated the contribution of \$100,000 by the County was not included in the report. Public Works Director Bergson stated he failed to indicate that in the report.

**MOTION** Councilmember Hasse moved and Councilmember Kearsley seconded to 1) Approve an amendment to the contract with Calx Engineering in the amount of \$234,000 for change orders and contingencies related to construction costs on the project; 2) Authorize the Acting City Manager to ratify the contract with Bing Yen and Associates and amendments for a total amount of \$39,066 for geotechnical services related to this project; 3) Authorize the Acting City Manager to ratify the contract with Solid Waste Solutions (SWS) and amendments for a amount of \$30,000 for construction management services related to this project; 4) Approve an appropriation of \$22,000 for archeological services and miscellaneous costs related to the project and 5) to amend the staff report to reflect the contribution of County funds in the amount of \$100,000. The motion carried unanimously.

**ITEM 4 ORDINANCES AND PUBLIC HEARINGS**

- A. Appeal - 01-017 - A request to overturn the Planning Commission's decision to approve Plot Plan Review Commercial No. 01-001 / Site Plan Review No. 01-001 / Conditional Use Permit No. 01-003 / Variance No. 01-001 / Variance No. 01-015 / Minor Modification No. 01-016 / Minor Modification No. 01-017 / Sign Permit No. 01-002 & Negative Declaration No. 01-01 - Appellant: Richard Garvey, Point Dume Community Association; Applicant: Ed Niles, FAIA; Owner: Arnold and Emma Klein; Location: 6551 Portshead Road; Gross Acreage: 2.29 Acres (99,752 square feet)

Staff recommendation: Continue to the regularly scheduled meeting of January 14, 2002 to allow staff and the appellant time to research and prepare additional information for the hearing.

**MOTION** Mayor Pro Tem Jennings moved and Councilmember Kearsley seconded a motion to continue the hearing to January 14, 2001. The motion carried unanimously.

**ITEM 5 OLD BUSINESS**

- A. Cross Creek Road Redesign, Selection of Concept (cip 00-12)  
Staff recommendation: Select the Serpentine concept and direct the preparation of construction contract documents for the redesign of Cross Creek Road.

Public Works Director Bergson presented the staff report.

Ozzie Silna stated he attended meetings at which the concepts were discussed. He stated he did not support either concept. He suggested angled parking in front of Taverna Tony's. He discussed traffic congestion at Civic Center and Pacific Coast



Highway. He encouraged the Council to leave the street as is. He requested the Council reconsider whether to proceed with either concept.

Ryan Embree, Public Safety Commission Chair, presented the Commission's discussion of the concepts. He stated the serpentine concept received the Commission's approval based on the number of parking spaces. He stated angled parking was a prior Council's priority. He suggested an interim striping plan to incorporate angled parking.

Patt Healy stated the proposed plan was more urban than the residents would support. She suggested the design be opened up for community input.

Councilmember Kearsley discussed the current dangerous situation on Civic Center Way. He suggested the Council consider one of the two concepts.

Jan Sangrind and Lacy Withers, Withers, Sangrind and Smith, introduced themselves.

Councilmember Kearsley asked if cars backing from the angled parking spots would block traffic. Ms. Sangrind explained the parking plan and plan phases. Councilmember Kearsley asked if there were pros and cons for the round about or serpentine concept. Ms. Sangrind explained that the serpentine concept would provide necessary traffic calming measures.

Councilmember Barovsky stated Cross Creek was currently urban and a dangerous situation. She stated the serpentine design would provide more open space and greenery. She stated it was necessary to proceed to ensure safety.

Ms. Withers discussed the safety issues at Civic Center and Cross Creek.

Councilmember Hasse indicated support for the serpentine street concept. He discussed the current safety issues. He stated it was necessary to make changes for public safety. He indicated support in concept for the serpentine street plan.

Mayor Pro Tem Jennings suggested including decomposed granite (DG) paths, landscape following the riparian habitat of the stream, and driveway realignment. He expressed concern regarding how the plan would work. He stated a turn lane or turn pocket was necessary off of PCH. He stated he liked serpentine concept with the inclusion of turn pockets.

Mayor House discussed the importance of upgrading Cross Creek for safety issues. She stated one of her goals was to dissuade Z-traffic. She supported continuing the riparian habitat and use of DG paths. She asked about opportunities for public input. Public Works Director Bergson stated public participation would occur at Public

Works and Public Safety Commission meetings . He explained advertising of those meetings.

Mayor Pro Tem Jennings asked if the serpentine concept would prohibit more than two lanes and turn pockets. Public Works Director Bergson explained the design phase. Mayor Pro Tem Jennings stated he would support the serpentine concept to indicate support for no medians.

Councilmember Barovsky expressed concern about the need for 4 lanes off of PCH.

MOTION Councilmember Hasse moved and Mayor Pro Tem Jennings seconded a motion to accept the Serpentine Street concept and direct staff to bring back the plan including 4 or 5 turn lanes off of PCH, DG paths and extension of the riparian habitat from the creek to Cross Creek Road. The motion carried unanimously.

- B. Commercial Development Standards (Malibu Municipal Code Section 9.3.07)  
Staff recommendation: Adopt Resolution No. 01-54 directing staff to prepare a zone text amendment correcting the commercial development standards of the Interim Zoning Ordinance (IZO).

Planning Director Hogan presented the staff report.

Mayor Pro Tem Jennings explained the Land Use Subcommittee's discussion of the matter. He stated the subcommittee recommended allowing the permitted Floor Area Ratio (FAR), maintain the required parking in Zoning Ordinance and anything left over would be open space and landscaping.

Mayor House stated she preferred .15 FAR in single story structures.

Mayor Pro Tem Jennings stated it was the Council's policy to encourage low rise commercial buildings.

Patt Healy expressed confusion as to how much open space would be diminished for parking lots. She discussed the reason for landscape and open space to maintain Malibu's rural character.

Ozzie Silna explained his understanding of the current requirements. He stated the City discouraged two-story buildings.

Mayor House stated Mr. Niles was unable to attend the meeting.

Councilmember Hasse asked if there were any other FARs lower than .15 in the State of California. Senior Planner Purvis stated the lowest FAR he had found was .30.

Councilmember Hasse asked the ramifications of a commercial property not being able to build under the current standards. City Attorney Hogin explained that projects required variances to be built. Councilmember Hasse stated low rise development was supported by the Council.

Councilmember Barovsky stated this action would not increase FAR. She stated it would relieve the need for variances for commercial developments.

Councilmember Kearsley asked if a person was forced into a variance or if the FAR would have to be lowered to accommodate open space. Senior Planner Purvis stated open space would be reduced by 13-14 percent. Councilmember Kearsley stated either the FAR had to be lower or zone text amendment initiated.

Mayor Pro Tem Jennings stated the current Code forced variances to build one story structures.

MOTION Mayor Pro Tem Jennings moved and Councilmember Kearsley seconded a motion to adopt Resolution No. 01-54 directing staff to prepare a zone text amendment correcting the commercial development standards of the Interim Zoning Ordinance (IZO). The motion carried unanimously.

C. California Coastal Commission's Draft Land Use Plan of the Local Coastal Program for Malibu ("LUP")

Recommendation: Review and approve recommendations from Mayor and Mayor Pro Tem with respect to revisions to the Coastal Commission's draft LUP.

City Attorney Hogin clarified the information before the Council. She stated the purpose of the item was to provide Council with an update and receive public comment.

Mayor Pro Tem Jennings discussed the meetings related to the Coastal Commission Draft LCP. He stated he felt it was premature for the Council to approve the proposed changes. He stated it was necessary take time to digest the changes. He suggested the Council accept the report and direct the Mayor and Mayor Pro Tem to continue the course of action.

Mayor House discussed the short time frame for discussion of the LCP. She requested staff respond to how much staff time has been spent on the matter. City Attorney Hogin estimated 500 hours had occurred on LCP discussions. She welcomed written comments on the draft LCP.

Judy Decker suggested the no parking signs be allowed to remain on Point Dume. She stated the City's participation would ensure an LCP that was workable for Malibu.

Kay Furgurson expressed concern about limits on agriculture. She discussed monitoring of landscaping included in the Draft LUP.

Robert Adler deferred his time to Mr. Mazza.

John Mazza expressed concern about protecting their beach. He presented written correspondence submitted to Coastal Commission from Malibu Riviera HOAs. He urged the Council to consider the special areas in Malibu such as tidepools and reduced access. He expressed concern about destruction of precious resources.

Mary Ayerst presented the Coastal Commission document "Questions and Answers - The California Coastal Act" She provided suggested changes to the draft policies.

Norm Haynie presented modifications he felt must be made if the City's General Plan were to survive. He stated any LCP approved should include statement that any provision contained in the document, should not be interpreted or construed in a manner as to violate any persons rights.

Corin Kahn suggested the discussion process be opened to the public, particularly environmental agencies.

David Kagon discussed coastal access as referenced in the Coastal Commission Draft LUP. He suggested that, before any access points were open to the public, all conditions be in place.

Roger Wolk discussed access issues. He discussed the requirement for lateral access to the public. He stated the Draft LCP changed requirement from "pass and repass" to "use the beach." He discussed vertical easements in the Colony.

Bob Purvey was not present at the time of the hearing.

Alan Armstrong commended the City and residents for talking and negotiating. He discussed ESHAS and vertical access. He suggested flexibility in landscaping to balance fuel modification with use of native Chaparral vs. invasive species. He stated it was necessary to utilize realistic guidelines to allow public access to the beach and to preserve natural resources.

Steve Uhring, Malibu Coastal Land Conservancy, discussed the closed meetings and expressed concern as to how the invitations took place. He suggested the Council identify who was at the recent meetings. He encouraged the Council to invite the Malibu Land Conservancy to future meetings.

Ozzie Silna expressed dismay over the closed meetings. He expressed concern over the time frame for the draft LUP. He expressed concern over ESHA designation. He indicated specific concerns with the draft.

Mayor Pro Tem Jennings explained the recent city negotiations. He stated ESHA maps were a subject of huge concern and discussions. He stated there were blanket provisions in the plan in response to Mr. Haynie. He stated the meetings held were not public meetings, rather private meetings held at City Hall. He stated there were conflicts between the plan and law as expressed by the U.S. Supreme Court. He discussed the time frame and modifications to be made to the draft.

Mayor House stated it was unclear as to what would happen at the hearing on January 15, 2002. She stated it was hopeful that the City could work with the Coastal Commission. She urged the public to provide comments and input on the draft.

Councilmember Barovsky asked if the Council meeting was considered a hearing. City Attorney Hogin stated it was not a public hearing but a route of public input. Councilmember Barovsky invited residents to provide input at the Coastal Commission level. She stated she, as well as Mayor and Mayor Pro Tem, were having meetings and calling residents to receive input. She corrected Mr. Kahn's letter indicating she was not on the Land Use Subcommittee with the Mayor and that her name was spelt incorrectly.

Councilmember Kearsley stated the City should only discuss issues required by the Coastal Act. He discussed the environmental communities' representation on the matter. He thanked the Mayor, Mayor Pro Tem and staff for their work.

Councilmember Hasse thanked the Mayor and Mayor Pro Tem. He stated he would be more persuaded by Mr. Kahn if he would indicated who TLC was. He encouraged the Mayor and Mayor Pro Tem to continue to negotiations.

**MOTION** Councilmember Barovsky moved and Councilmember Kearsley seconded a motion to continue negotiations with the Coastal Commission and place the matter on the January 14, 2002 agenda. The motion carried unanimously.

**ITEM 6 NEW BUSINESS**

None.

**ITEM 7 COUNCIL ITEMS**

None.

**ITEM 1 CEREMONIAL/PRESENTATIONS**

- A. Presentation of Malibu Tile to Pat Greenwood for 10 Years of Volunteer Service to the City of Malibu (Continued from November 13, 2001)

Mayor House presented a Malibu tile to Pat Greenwood for her service to the City.

**ADJOURN** At 9:40 p.m., Councilmember Hasse moved and Councilmember Kearsley seconded a motion to adjourn. The motion carried unanimously.

Approved and adopted by the City Council of the City of Malibu on  
January 14, 2002.

\_\_\_\_\_  
JOAN HOUSE, Mayor

ATTEST:

\_\_\_\_\_  
LISA POPE, City Clerk  
(seal)